

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Willie Frazier, #219272,
a/k/a Willie Bernard Frazier,

Petitioner,

vs.

Warden Burt,

Respondent.

) C/A No. 4:21-1674-MGL-TER

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ORDER

This is a § 2254 action. This case is before the Court due to Petitioner's failure to comply with the magistrate judge's order to pay the fee or apply for *in forma pauperis* status. (ECF No. 5). The order was not returned as undeliverable.

The mail in which the Order was sent to Petitioner's provided address has not been returned to the court, thus it is presumed that Petitioner received the Order, but has neglected to comply with the Order within the time permitted under the Order. The Court has not received a response from Petitioner and the time for compliance has passed. A review of the record indicates that the magistrate judge specifically informed Petitioner that if Petitioner failed to comply with the Order, this case would be subject to dismissal.

Petitioner's lack of response to the Order indicates an intent to not prosecute this case, and subjects this case to dismissal. *See* Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a Petitioner fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

IT IS SO ORDERED.

Columbia, South Carolina
July 12, 2021

s/Mary Geiger Lewis
Honorable Mary Geiger Lewis
United States District Judge

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.